

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA (HARRISBURG)

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UNITED STATES OF AMERICA, : CRIMINAL ACTION
:
Plaintiff, :
:
vs. :
:
KEITH THOMAS DOUGHERTY, :
:
Defendant. : NO. 19-00140-CFC-1

- - -

Wilmington, Delaware
Monday, April 12, 2021
1:03 o'clock, p.m.

- - -

BEFORE: HONORABLE COLM F. CONNOLLY, U.S.D.C.J.

- - -

APPEARANCES:

JEFFREY A. FINUCANE, ESQ.
United States Attorney's Office
(Martinsburg, West Virginia)

Counsel for Plaintiff

THOMAS J. YOUNG, ESQ.
Federal Defender of New Jersey

Standby Counsel for Defendant

Valerie J. Gunning
Official Court Reporter

P R O C E E D I N G S

(Proceedings commenced in the courtroom
beginning at 1:03 p.m.)

THE COURT: All right. Please be seated. All
right. Good afternoon, Mr. Finucane.

MR. FINUCANE: Good afternoon.

THE COURT: And, Mr. Dougherty, I wanted to have
this conference because the Third Circuit has still not
ruled and I wanted to offer you the opportunity,
Mr. Dougherty, to say, look, you've reconsidered. Let's try
and get a trial so you can get a trial.

I will reiterate, you, and I will say that
you're not losing your right to appeal and this way you can
get a trial, which is what we talked about last time. You
didn't want to do that. I don't know if having now had to
spend this amount of time to change your mind and maybe
you're ready to say let's go ahead and try it and you can
preserve your rights to appeal.

So that's the whole purpose of this conference,
because I was worried that the Third Circuit wouldn't rule
and they have not ruled. It's out of my hands to get them
to rule.

Do you want to rethink it and would you prefer

1 to just go, let's try it? I will contact the judges in the
2 Middle District and try to schedule a trial and that way we
3 can get you a trial and you can still preserve your rights
4 to challenge the arguments or, rather, my rulings. And what
5 do you think about that?

6 THE DEFENDANT: Well, Your Honor, it's not that
7 I'm against, you know, anything that you laid out and I
8 understand the course that I've decided on since October 1st
9 was my own doing in terms of delay, but I believe it's
10 important to get at least some sort of denial as to the
11 procedural arguments that I've made, that it's invalid,
12 inappropriate.

13 THE COURT: But, see, you're going to keep
14 waiving. I mean, and if it's just procedural, you'll at
15 least have had your trial. I mean, if you get acquitted,
16 you're a free man. If you get convicted, you are going to
17 have to wait anyway.

18 THE DEFENDANT: Well, again, my concern is some
19 of the things that I thought had been left unresolved in
20 terms of if I were going to trial, I'd want some surety as
21 to, in essence, what defenses would be allowed, how somebody
22 would be permitted to proceed. If, in fact, we're going to
23 foreclose this, that or the other, then that's all part of
24 it. So it is a circumstance where I'm not adverse to the
25 idea of going to trial eventually, but at the same token

1 I've looked at certain other cases where people have taken
2 plea deals, ultimately prevailed, and their victory was
3 purest because they, in fact, got nothing out of it.

4 THE COURT: Wait. I didn't say a plea deal.

5 THE DEFENDANT: I'm sorry?

6 THE COURT: I didn't say anything about a plea
7 deal.

8 THE DEFENDANT: Okay. Well, maybe you're not
9 involved in that particular --

10 THE COURT: I'm not.

11 2THE DEFENDANT: But my point being --

12 THE COURT: Well, wait, because I don't know
13 anything about a plea deal. I'm saying is if you want to go
14 to trial.

15 THE DEFENDANT: Okay.

16 THE COURT: I will once again say, you're not
17 losing your right to appeal the issues that you've raised
18 before. What has happened, I feel, you know, when we were
19 here last time, I spent a number of minutes telling that I
20 was concerned by you insisting on having the Third Circuit
21 rule, that it may not happen for a long time.

22 THE DEFENDANT: Yes.

23 THE COURT: And I said the spring. And we're
24 now into spring and they have not ruled. So you can go to
25 trial. As a plea, you've got to work out a plea with the

1 government. That has got nothing to do with me.

2 THE DEFENDANT: I was conflating those things
3 improperly. Then the point being that I'm not interested in
4 changing the path that I am on right now and I have been
5 complying with your previous order to keep you up to date as
6 to what's going on.

7 THE COURT: Right.

8 THE DEFENDANT: Consequently, I was kind of
9 taken aback by you setting this status conference, so I
10 thought you had something to do with collateral issues that
11 were going on, so forgive me.

12 So the point being that there are technically
13 three issues pending in the Third Circuit and they're all
14 still active and they've had certain other procedural
15 disagreements between me and the Third Circuit about
16 repaying the filing fees for what is the fifth or sixth
17 time.

18 THE COURT: Wait, hold on. That's in the other
19 case. I don't think that's in the case -- so you've got two
20 Third Circuit case cases.

21 THE DEFENDANT: Technically, three.

22 THE COURT: Okay. I'm aware of 20-3394, which
23 is the case that matters for me. That's the case where
24 you're appealing my ruling and you're appealing -- well,
25 what you are really appealing is the habeas position filed

1 with Judge Wolfson.

2 THE DEFENDANT: Correct.

3 THE COURT: And then Judge Wolfson denied your
4 motion for reconsideration and that is on appeal and that's
5 the 20-3394. Right?

6 THE DEFENDANT: Technically, that's a mandamus.
7 It's not really an appeal.

8 THE COURT: Okay.

9 THE DEFENDANT: What I did --

10 THE COURT: It's the same --

11 THE DEFENDANT: Again, no, it's not. The
12 mandamus is to actually remove you, Judge Wolfson and Judge
13 Diamond from the three interrelated cases and a writ of
14 prohibition against reference to Reed versus Ward in FDC
15 Philadelphia as a try by jurisdictional ruling that can be
16 accorded no precedential effect according to the Supreme
17 Court super precedent, Fort Bend County Texas versus Davis.
18 You're not allowed to establish local rules in the Circuit
19 Court that limit subject matter jurisdiction. The subject
20 matter jurisdiction at issue is 224(c)(3).

21 Now, in addition to that, because as we had
22 discussed on September 12, 2019, the previous victory in my
23 motion in 1126-31, order issued by Judges Barry and Fisher
24 to file a brief on these issues was quashed by an improper
25 panel of former Chief Sirica, current Chief Smith, future

1 Chief Chagares and then they combined multiple cases, which
2 violates All v. Hall and was reversed nine to nothing by the
3 Supreme Court. So those orders are all void and the only
4 valid order was the one order issued by Judge Fisher in
5 Barry related to my victory in my motion to proceed to file
6 a brief.

7 THE COURT: Okay.

8 THE DEFENDANT: So wait a minute. Now then I
9 filed habeas directly to him as a separate matter under --
10 that's now characterized under 20-3303, but here is the
11 problem. Local rule mistake made by the Chief Clerk of the
12 Circuit, she issued show cause to me as opposed to what 28
13 U.S.C., 1657 required, and 28 U.S.C., 2243.

14 THE COURT: And just so I know, is that of the
15 noncompliance order?

16 THE DEFENDANT: It --

17 THE COURT: That was issued on April 7th?

18 THE DEFENDANT: I'm not sure of the date.

19 THE COURT: We've got an April 7th noncompliance
20 order was issued on a petition for rehearing in 3303.

21 THE DEFENDANT: There is a petition for
22 rehearing, but that wasn't filed in April.

23 THE COURT: No, not the petition. The
24 noncompliance order was filed on April 7th.

25 THE DEFENDANT: Oh, I don't have a copy.

1 THE COURT: Hold on a second. I will get you a
2 copy. All right. But let's just -- I think the most
3 important thing is, that is all the 3303 case, and the
4 point is that the only case that matters, the case that
5 matters for our purposes is the 3394 case. That is where
6 your trial is stayed. There has been no activity on that
7 case. Right?

8 THE DEFENDANT: Well, no. What's holding that
9 up, they had said I would either have to file IFP petition
10 or pay the \$500 filing fee. It was not paid by me until
11 February -- actually, I mailed it on the 11th. They
12 docketed it on the 23rd, but then nothing -- February 23rd,
13 and then from that, just this past week, they've now
14 refunded the fee. So --

15 THE COURT: Okay. Hold up. And you think this
16 is in the -- this is in the 3394 action?

17 THE DEFENDANT: That's 3394.

18 THE COURT: All right. Hold on. Let me just
19 look then. I've got the docket.

20 THE DEFENDANT: And let's that was the
21 noncompliance.

22 THE COURT: Okay. So here's what I have as far
23 as action taken with the 3394 case.

24 THE DEFENDANT: Mm-hmm.

25 THE COURT: And just so we're all on the same

1 page, you agree, right? The 3394 is the action that matters
2 for our case?

3 THE DEFENDANT: Well, no.

4 THE COURT: No?

5 THE DEFENDANT: The 3303 could be taking over
6 for Judge Wolfson. The other case is basically as a
7 supervisory mandamus, or Gerstein versus Pugh, a class
8 action lawsuit, because it involves a number of cases.

9 THE COURT: Right. But you filed the petition
10 for a writ of mandamus from Judge Wolfson's denial of your
11 motion for reconsideration. You filed that on November 25th
12 and that is what started the 3394 action. You at least
13 agree with that. Right?

14 THE DEFENDANT: Well, again, one is a
15 procedural -- mandamus is procedural.

16 THE COURT: Okay.

17 THE DEFENDANT: The separate habeas is actually
18 a different way of addressing the same issue. Just like
19 when I sent 115 to you as a notice copy and you treated it
20 as a motion, it then had to be filed directly --

21 THE COURT: Okay. So then if I treat them both,
22 we still have this problem, is that the way I stayed the
23 case at your request, was that it would be the earlier of
24 either Judge Wolfson changed his mind and granted your
25 motion for reconsideration, which that didn't happen. You

1 agree with that?

2 THE DEFENDANT: Correct.

3 THE COURT: All right. Or the Third Circuit
4 would rule --

5 THE DEFENDANT: Right.

6 THE COURT: -- on your appeal or whether it was
7 done by mandamus or otherwise, your appeal of that order.
8 Do you agree with that?

9 THE DEFENDANT: Correct.

10 THE COURT: Okay. And what you are saying, I
11 think, is that, so that would include both the 3394 and the
12 3303 action.

13 THE DEFENDANT: Correct.

14 THE COURT: Okay. So I'm good with that.

15 THE DEFENDANT: Okay.

16 THE COURT: I will just accept that.

17 THE DEFENDANT: Okay.

18 THE COURT: We still have the problem that there
19 has been no ruling in the 3394.

20 THE DEFENDANT: Correct.

21 THE COURT: Okay. And that goes back to what
22 started me, which is so that therefore, what I'm really
23 wondering is, would you not agree to let's go forward with
24 the trial and I will take the stay off. Have your trial and
25 you preserve all of your rights, and I will even add we'll

1 say the rights that you are asserting in the 3394 and the
2 3303 action, but that way you could at least have a trial.

3 THE DEFENDANT: Mm-hmm.

4 THE COURT: Because if you were to be acquitted,
5 all of those things wouldn't matter. You would win.

6 THE DEFENDANT: Correct.

7 THE COURT: And if you lose, I'm telling you
8 like I told you last fall, you'll still have the right.
9 Those appeals or mandamus action will still exist.

10 So is that something you would be interested in
11 doing?

12 THE DEFENDANT: No.

13 THE COURT: Okay.

14 THE DEFENDANT: Did you get a copy of my status
15 conference memoranda that I brought with me today?

16 THE COURT: No. They've copied them. This is
17 the first I'm seeing them, but I heard you filed it.

18 THE DEFENDANT: So maybe that would explain my
19 position a little bit better.

20 THE COURT: Okay.

21 THE DEFENDANT: Because I'm asserting if, in
22 fact, I am correct and have a constitutional right not to be
23 tried --

24 THE COURT: Yes?

25 THE DEFENDANT: -- that is what the case law

1 stipulates.

2 THE COURT: Yes, okay. Suppose you're right.

3 Let's suppose that you are right.

4 THE DEFENDANT: Okay.

5 THE COURT: I'm wrong.

6 THE DEFENDANT: Okay.

7 THE COURT: That I should dismiss the charges

8 right up front.

9 THE DEFENDANT: Correct.

10 THE COURT: Okay. So that's the case.

11 THE DEFENDANT: Correct.

12 THE COURT: You're going to have the right to,

13 even if we had a trial and even if you were convicted, you

14 would still have the right to get the Third Circuit to

15 overturn your conviction and to tell me that I was wrong.

16 You have that right.

17 THE DEFENDANT: Again, maybe I'm not being very

18 clear. I think that sounds like a moot victory.

19 THE COURT: No, because they would vacate your

20 conviction. It wouldn't be moot. It happens all the time.

21 Well, I can't say it happens a lot.

22 THE DEFENDANT: No.

23 THE COURT: But you know the victory you get is,

24 if you were to get that victory, the victory would be, you

25 don't have a conviction.

1 THE DEFENDANT: Mm-hmm.

2 THE COURT: And that I was told I erred. I
3 should never have had trial. I should not have forced you
4 to go to trial.

5 THE DEFENDANT: Right.

6 THE COURT: That's the victory. I mean, that's
7 the way we live. What else would you want?

8 THE DEFENDANT: Well, that's my point. In other
9 words, like, that can be accomplished by a successful
10 habeas, or in the --

11 THE COURT: It is possible, but what I'm worried
12 about is even if you were to win, you wouldn't find out
13 until a year from now. I mean, they've done nothing on the
14 case for six months. I mean, at some point, you know, you
15 talk about a plea. I mean, I don't know if the government
16 has even offered you a plea. I don't know if the government
17 would consider offering you a plea. There's a thing called
18 a conditional plea.

19 THE DEFENDANT: Yes.

20 THE COURT: I just entered one for a defendant,
21 I don't know, maybe it was four weeks ago where the
22 defendant said, I've got a Fourth Amendment right against
23 unreasonable searches and seizures. And so what happened
24 is, but the defendant pled guilty and is now appealing the
25 Fourth Amendment ruling. If the defendant wins on the

1 appeal, the Fourth Amendment ruling, then his conviction,
2 his guilty plea, will be vacated, like it never happened,
3 and I will have been told I was wrong, I should not have
4 denied the motion to suppress.

5 THE DEFENDANT: Okay.

6 THE COURT: So that's what would happen. I
7 mean, the problem with what you are proposing is, and I
8 think you've already suffered from it, is you're just going
9 to wait in jail until you even hear from the Third Circuit,
10 and then if they rule against you, then you're not going --
11 then you'll have to go to trial and it will be so far down
12 the road, you will have spent all this time in jail.

13 THE DEFENDANT: I think I understand that, but,
14 you know, the point is that, again, the habeas that's
15 pending with regard to Judge Fisher actually seeks a finding
16 that it was a suspension called a violation, and as
17 additional relief as under the Supreme Court case cited in
18 2020, I'm seeking a Federal Grand Jury as a private citizen
19 under Pennsylvania law.

20 THE COURT: Well, again, I don't know of any
21 precedent that would establish that, but if you have a
22 different view, if you would get to do it at that point.
23 And then --

24 THE DEFENDANT: But my point it --

25 THE COURT: You're going to sit in jail while

1 all this is going on.

2 THE DEFENDANT: Yes, but my point is it's ripe
3 as it is combined to Judge Fisher right now and it would be
4 the same kind of protracted time frame to get these matters
5 reviewed if, in fact, I was to drop or withdraw, and I would
6 be starting the clock all over again for that. And it's
7 very important that we put an end to Simbraugh versus U.S.
8 and Reese versus Warden FDC Philadelphia. That is essential
9 if I'm ever going to get my life back.

10 THE COURT: But you say get your life back. I
11 mean, isn't getting your life back to get out of prison and
12 back to home?

13 THE DEFENDANT: Well, take, for instance,
14 Carolyn Bond. She was convinced by her attorney to plead
15 guilty to one count. It took -- the sentence was six years
16 in prison. She served all of her six years. The Supreme
17 Court determined that, in fact, what she was charged with
18 was not a federal crime.

19 THE COURT: Okay.

20 THE DEFENDANT: And the prosecutor fought
21 expunging her record. Now, again, if she had used the
22 technique that I've employed --

23 THE COURT: Is that the Bridgegate case?

24 THE DEFENDANT: No. Carolyn Bond versus United
25 States. It was a chemical weapons ban treaty.

1 THE COURT: I'm not familiar with it.

2 THE DEFENDANT: It's the same conflict of
3 sovereign that I'm arguing. If Pennsylvania says Keith
4 Dougherty has a constitutionally protected right to defend
5 his property against crime even if committed by government
6 employees of the federal government, then you can't charge
7 me with threatening them when I provide a warning that is
8 required by state law if I'm going to use that defense. So
9 we have a situation where I have to warn them, and if I warn
10 them, you say I've committed a federal crime, so we have a
11 conflict. It has got to be resolved.

12 THE COURT: I understand that and I don't even
13 disagree with it, but why not get it resolved and at the
14 same time go ahead and have your trial so that -- because
15 it's going to get resolved. If you have a jury trial and
16 you win, to a certain extent, it was resolved. You won.
17 Right?

18 THE DEFENDANT: Correct.

19 THE COURT: Okay. So why not have that occur?
20 Let's get that in motion so that you could at least have
21 that victory and you are preserving -- as I say, you're
22 preserving, guaranteeing your right to pursue all of these
23 petitions in the Third Circuit.

24 THE DEFENDANT: And I'm not disagreeing with
25 you, so please understand when I'm revisiting this subject

1 one more time.

2 THE COURT: All right.

3 THE DEFENDANT: If you were to read the motion
4 for reconsideration and en banc panel review submitted to
5 the 3303 panel, now, I want you to just clarify. The reason
6 that is being considered for rehearing is because it was
7 submitted under 2241(a), Clause 4 to a single circuit judge.

8 The Third Circuit Clerk because of local custom
9 issued a show cause order to me when, in fact, she had no
10 jurisdictional authority to do that. Now, that is one of
11 the other embedded issues. You refused to rule on that
12 preliminary injunction related to IOP 10.6 LAR 27.4. It's
13 pending from the civil matter that his standing sought a
14 stay related to this case. That was the first thing the
15 prosecution did, to seek a stay in that case.

16 So all of that is embedded in this and dragging
17 out because we don't want to adhere to what is now mandatory
18 claims processing rules and the procedures for establishing
19 them, and the pretrial habeas that has tried to be abandoned
20 in this circuit, they don't want it anymore.

21 Now, at that point, it goes -- you can submit it
22 to the Supreme Court as a forum to an individual justice, to
23 an individual circuit judge, or to the District Court, all
24 of which have been denied in the Third Circuit.

25 Now, the next step may very well be to submit it

1 to a single Supreme Court Justice, but there's no doubt that
2 the statute exists. It's just being invalidated by what is
3 a local Court rule.

4 Now, that is being sent, being reconsidered,
5 because they submitted it -- first, they submitted show
6 cause to me and then they put it in front of a three-judge
7 panel and the panel acted completely confused, as if it were
8 a mandamus, that it was a habeas, and they said, well, if it
9 were a mandamus, we would deny it. No further explanation.

10 THE COURT: So here's the thing. Let's say
11 you're right.

12 THE DEFENDANT: Okay.

13 THE COURT: Wouldn't you rather be out? I mean,
14 put aside the case. Let me just ask you some questions.

15 THE DEFENDANT: Okay.

16 THE COURT: What are the conditions where you
17 are?

18 THE DEFENDANT: Pardon me?

19 THE COURT: What are the conditions where you
20 are?

21 THE DEFENDANT: Here are the circumstances. I
22 don't mean to make light of this or be flippant, but while I
23 was in prison, and I think I sent you a kind of a rhetorical
24 comment about it, I was approached by a doctor, and, in
25 fact, if, in fact, my theory on this is correct, then, in

1 fact, he winds up benefiting in the same way I benefit from
2 the standpoint that his guilty plea is withdrawn. In fact,
3 his 42-count indictment must be dismissed with prejudice.
4 And because of my contract with him, my earnings would be
5 \$3.233 million while I was in prison.

6 Now, I know that to you that sounds fanciful and
7 ridiculous, but if, in fact, that is even a possibility, it
8 falls into the same category as the case that's being cited
9 relative, that's the third case that you think is not
10 involved, but I'm the applicant in his case along with being
11 the applicant and detainee in both of my cases.

12 And, in fact, in NAACP versus Button --

13 THE COURT: All right. I just want to talk on a
14 human level for a second.

15 THE DEFENDANT: Okay.

16 THE COURT: I don't want any law stuff. All
17 right? Just indulge me.

18 THE DEFENDANT: Mm-hmm.

19 THE COURT: And none of this can be used by the
20 government.

21 THE DEFENDANT: Okay.

22 MR. FINUCANE: Understood, Your Honor.

23 THE COURT: All right. Are you by yourself in
24 the cell?

25 THE DEFENDANT: Pardon me?

1 THE COURT: Are you by yourself in a cell?

2 THE DEFENDANT: No. There's a --

3 THE COURT: A cellmate?

4 THE DEFENDANT: A cellmate, yes.

5 THE COURT: And it's not the doctor. Right?

6 It's somebody else?

7 THE DEFENDANT: No. Somebody else.

8 THE COURT: Okay.

9 THE DEFENDANT: But, in fact --

10 THE COURT: Did you get along with the cellmate?

11 THE DEFENDANT: This is my point. I have
12 provided him with habeas corpus assistance where he's
13 challenging --

14 THE COURT: Right. Don't get into the merits.
15 I just want to do human level for a second.

16 THE DEFENDANT: Mm-hmm.

17 THE COURT: Do you understand? How are the
18 meals?

19 THE DEFENDANT: They're, you know, poor to
20 whatever.

21 THE COURT: Do you get to watch TV?

22 THE DEFENDANT: Barely.

23 THE COURT: Do you get access to a computer?

24 THE DEFENDANT: No.

25 THE COURT: How are you keeping up with the

1 events going on in the world?

2 THE DEFENDANT: You know, fits and starts on the
3 TV that we're able to see.

4 THE COURT: Do you have any family?

5 THE DEFENDANT: I have family, yes.

6 THE COURT: Are you in touch with them?

7 THE DEFENDANT: No.

8 THE COURT: Are you in touch with anybody on the
9 outside?

10 THE DEFENDANT: I purposely have divested myself
11 from family communications so they're not bothered by what
12 has to be done and resolved as far as I'm concerned.

13 THE COURT: Do you have any friends that you are
14 talking to that are outside?

15 THE DEFENDANT: Not in the context that you are
16 using it, no.

17 THE COURT: When you say "the context," do you
18 have any friends?

19 THE DEFENDANT: I don't have friends.

20 THE COURT: All right. Do you get to read any
21 books?

22 THE DEFENDANT: No. Basically, all of my time
23 is spent on these --

24 THE COURT: On the legal issues?

25 THE DEFENDANT: Yes. So --

1 THE COURT: Weren't you like a track star? You
2 were a track star?

3 THE DEFENDANT: Pardon me?

4 THE COURT: Weren't you a really good runner in
5 high school?

6 THE DEFENDANT: No. I was an all state running
7 back, national champion in javelin, all ECA in college.

8 THE COURT: Are you getting to do any sports?

9 THE DEFENDANT: I'm able to keep physically
10 active in the prison because that's part of my makeup.

11 THE COURT: But what do you do?

12 THE DEFENDANT: I run the steps. The two-story
13 common area where, in fact, I can run figure eights up and
14 down steps, yeah.

15 THE COURT: Do you miss the newspapers and the
16 TV?

17 THE DEFENDANT: The newspapers, absolutely not.
18 And TV is mainly garbage, but I do, believe it or not.

19 THE COURT: I have to agree with you
20 incidentally on that.

21 THE DEFENDANT: Believe it or not, I actually
22 have enjoyed being in prison because of some of -- I had
23 been introduced to a what I would call crazy preacher
24 program that I found very entertaining, but -- so in terms
25 of my activities outside of prison would only be different

1 if I were to be flying my airplanes, sailing large boats and
2 playing golf, and all of that can wait for when this is
3 resolved, because I believe this is my civic responsibility,
4 because I'm in a unique position to be able to go through
5 this, and hopefully, it will benefit others that come behind
6 me.

7 THE COURT: So what about though you have your
8 trial and you would carry on that civic duty you talked
9 about.

10 THE DEFENDANT: Now, here's the problem, Your
11 Honor.

12 THE COURT: Yes?

13 THE DEFENDANT: This has been going on for
14 13 years, okay, this battle between the Third Circuit trying
15 to prevent Keith Dougherty from appearing in a courtroom and
16 representing himself, and each step along the way I've been
17 able to convince the rules committee to modify Rule 1, 6,
18 16, 55, establish the precedent for de facto takings in the
19 Third Circuit, assisted in other areas.

20 I have been directly responsible for the IRS
21 modifying W-9 in 2014 and then again in 2018, yet Judge
22 Connor has made it a personal vendetta to make sure that
23 none of my cases will even see the light of day, and we're
24 going to resolve that.

25 THE COURT: But that won't get resolved by the

1 criminal case.

2 THE DEFENDANT: Oh, it will. If I'm correct, I
3 am entitled to a grand jury under Pennsylvania colonial law.

4 THE COURT: Right. But all I'm telling you is
5 this. If you're right, that will not be resolved by the
6 jury. That might get -- it might get resolved by the Third
7 Circuit.

8 THE DEFENDANT: The point is, if I were to be
9 entitled to a habeas --

10 THE COURT: Right.

11 THE DEFENDANT: -- there will be no trial and
12 that's part of what --

13 THE COURT: But what I'm telling you is, you're
14 not waiving your right to challenge that habeas even if you
15 go forward.

16 Let me ask you this. Mr. Finucane, what's the
17 maximum penalty for the charges pending against
18 Mr. Dougherty?

19 MR. FINUCANE: Count 1 is ten years and for each
20 subsequent, it's five years. It's 25 years if you ran them
21 consecutively.

22 THE COURT: Mr. Dougherty, at times you try my
23 patience. You make arguments that I think a lot of times
24 are silly. You've made some okay arguments and I've ruled
25 in your favor early on in the case.

1 Do you remember that?

2 THE DEFENDANT: I thought you ruled twice, but
3 you backed away from one of them.

4 THE COURT: All right. At least once I ruled in
5 your favor.

6 THE DEFENDANT: Yes.

7 THE COURT: I think twice, but we can vary on
8 that. You know, I just hate to see you spending time in
9 jail unnecessarily, you know. And I'm not saying -- I don't
10 know what the jury is going to rule. You know, if the jury
11 convicted you, then, yes, you would have to spend some time
12 in jail. Of course, it could happen that by the time they
13 convict you, you would have already spent your sentence in
14 jail.

15 THE DEFENDANT: Well, again --

16 THE COURT: What are the guidelines range? Do
17 you know?

18 MR. FINUCANE: I do, Your Honor. Of course, it
19 depends on how you do the enhancement. You know, he's
20 looking at a 36 to 48-month range. You know, if you don't
21 take any points off for acceptance, that's a very reasonable
22 outcome.

23 THE COURT: Well, look. I just wanted to have a
24 frank conversation with you.

25 THE DEFENDANT: Mm-hmm.

1 THE COURT: I wanted to give you the opportunity
2 if you wanted, I would withdraw the stay and we'd schedule
3 the trial, but it sounds to me like you don't want it. You
4 want to keep waiting.

5 THE DEFENDANT: Yes. I'm waiting for at least
6 the barest segment of due process of law to see it if exists
7 in the Third Circuit. I'm doubtful, but at some point if I
8 don't push it to the limits, I don't think anybody else will
9 either.

10 THE COURT: All right. So, Mr. Finucane, where
11 does the government stand on things?

12 MR. FINUCANE: I would just like to briefly make
13 the record, Your Honor, if that's acceptable.

14 THE COURT: Yes.

15 MR. FINUCANE: We did appear -- in regard to a
16 lot of what happened, we did have a chance to speak before
17 and I appreciate the Court's indulgence.

18 THE COURT: Yes. So there was a reference to a
19 plea or something. I think I need to clarify. Did the
20 government offer a plea?

21 MR. FINUCANE: Yes. I would like to describe
22 that.

23 THE COURT: Please do.

24 MR. FINUCANE: Just briefly, it does matter
25 going forward. The parties did appear on October 1st, 2020,

1 and every legal issue raised by Mr. Dougherty was
2 adjudicated at the pretrial conference, and there are no
3 outstanding issues before this Court.

4 I understand that there's a habeas. There's
5 Third Circuit --

6 THE COURT: Correct. I know that.

7 MR. FINUCANE: But there are no outstanding
8 issues in front of this court prior to trial except
9 possibly, you know, a procedural -- an exhibit, something
10 like that. There are no substantive dispositive motions
11 existing before this Court prior to trial.

12 THE COURT: And the deadlines for motions has
13 passed.

14 MR. FINUCANE: The deadline has passed by a
15 significant period of time.

16 Specifically with regard to the plea, Your
17 Honor, the government extended a plea today to
18 Mr. Dougherty. I provided a copy to Mr. Young.

19 Mr. Dougherty has, I would say, rejected --

20 THE COURT: Mr. Young just held up a piece of
21 paper.

22 MR. FINUCANE: I think that's it.

23 THE COURT: Okay.

24 MR. FINUCANE: I would prefer not to put the
25 terms on the record, Your Honor.

1 THE COURT: Fine.

2 MR. FINUCANE: But I would like to say from the
3 government's point of view, that plea is open until Friday,
4 April 23rd, and I will come back any day until Friday,
5 April 23rd. At that point that is no longer in my control
6 and that plea is withdrawn.

7 THE COURT: Okay.

8 MR. FINUCANE: But for the record, Mr. Dougherty
9 has a plea. He has a plea offer. We have indicated a high
10 willingness to work with him.

11 THE COURT: Does the plea include a right to
12 appeal the rulings that I've made?

13 MR. FINUCANE: Absolutely. It's an 11(a)(2)
14 conditional plea enumerated. Continue the matters he has
15 currently filed and appeal all of the rulings this Court
16 made at the October 1st, 2020 pretrial conference, which is
17 everything he has reiterated today, the process, the grand
18 jury was corrupt, the prosecutor was malicious, the Court is
19 biased. Every single one of those rights to appeal are
20 preserved in the plea.

21 THE COURT: All right. And is the government
22 saying we need to go forward -- to me, I'm just very
23 reluctant, because we still have Covid. We're all wearing
24 masks. We're not through Covid yet. That says to me, okay.
25 Then let Mr. Dougherty have his wish and not try the case.

1 I don't know where the government is on that.

2 MR. FINUCANE: Well, there is a point where this
3 becomes absurd, the continuance. It has been six months. I
4 mean, he was warned extensively that appellate issues are
5 slow and that he said that he was emphatic and emphatic
6 today.

7 THE COURT: Okay.

8 MR. FINUCANE: He wants the process to work
9 through the Circuit Court. I believe the Court is working
10 fairly. Six months past does not mean he's getting a ruling
11 in three weeks. I've heard it can easily be six months.

12 I concur with the Court, Your Honor, this is not
13 an easy time to do a trial. I don't know what they are
14 doing in the Middle District of Pennsylvania. I know in our
15 jurisdiction, there's glass everywhere. It's a complete
16 fiasco to pick a jury.

17 THE COURT: Well, I told you before, when you
18 have a pro se defendant, picking a jury -- and, again, I
19 can't even imagine how we can do it. But you kind of mooted
20 it because you don't want to go to trial anyway.

21 MR. FINUCANE: Your Honor, if it provides some
22 comfort, maybe we should another status on the calendar, I
23 hate to say three months. I don't know what's reasonable,
24 the way we're proceeding here. At least it doesn't fall
25 through the cracks.

1 THE COURT: It's not going to fall. I told you
2 that I -- I told you both I would be surprised if we were
3 going to try this thing by the spring because I didn't think
4 the Third Circuit would rule. It hasn't ruled. I don't
5 know when they will rule.

6 And, Mr. Dougherty, by your own agreement, that
7 if the Third Circuit denies the 3394, you're ready to go to
8 trial?

9 THE DEFENDANT: Again, Your Honor, it would --
10 I'm looking at the three cases together. You don't seem to
11 want to do that.

12 THE COURT: The 3394 and the 3303?

13 THE DEFENDANT: It seems to me that the one
14 that you are not mentioning would probably be more
15 dispositive on --

16 THE COURT: What is the number of the one I'm
17 not mentioning?

18 THE DEFENDANT: 20-3047. I told you, that's why
19 I tried to consolidate --

20 THE COURT: Hold on, hold on, hold on.

21 THE DEFENDANT: Again --

22 THE COURT: I don't think I -- hold on a second.
23 You think it's a Third Circuit, 20-dash-what?

24 THE DEFENDANT: 3047.

25 THE COURT: Okay. Hold on a second. Okay.

1 That's the Berkowitz case.

2 THE DEFENDANT: Correct.

3 THE COURT: Oh, okay. Sorry. I do know what
4 you are talking about. Okay.

5 THE DEFENDANT: Now, I had filed --

6 THE COURT: And you think I should wait to try
7 you until that case --

8 THE DEFENDANT: No. I'm saying that's further
9 along the path and would be dispositive in terms of
10 information before the other two I believe would be in that
11 position, so it may happen sooner. That's my point.

12 THE COURT: Oh, so are you saying that if the
13 Third Circuit ruled against Berkowitz, then you would be
14 ready to try?

15 THE DEFENDANT: Depending on what the decision
16 is. Okay? Now, again, that issue is directly related to
17 what I'm arguing and is being argued in the other cases that
18 I've put together.

19 Now, it may be dismissed, it may be treated as a
20 supervisory mandamus. It may be treated as a Gerstein
21 versus --

22 THE COURT: Here's what I'm going to do. I'm
23 going to monitor that case.

24 THE DEFENDANT: Okay.

25 THE COURT: So I'm going to monitor all three

1 cases.

2 THE DEFENDANT: Okay.

3 THE COURT: To see if the Third Circuit issues
4 some kind of ruling that addresses the merits of what you
5 say I've done wrong.

6 THE DEFENDANT: No, it's not the merits. That
7 is the procedural issue surrounding 2443. Does it still
8 exist?

9 THE COURT: It's an argument. Fine. My point
10 would be will monitor it, okay, because here's where I am
11 ultimately. I'm granting your wish.

12 THE DEFENDANT: Okay.

13 THE COURT: To not go forward with a trial.

14 THE DEFENDANT: Mm-hmm.

15 THE COURT: Part, a big part of the reason why
16 I'm granting your wish is because we are living with the
17 pandemic and, you know, and so when I put those two things
18 together, I'm willing to forego a trial right now. But we
19 will monitor the three appeals, and I will, if appropriate,
20 bring the government and Mr. Dougherty in for a status
21 conference, and I would like to see a more speedy resolution
22 of all of your arguments.

23 THE DEFENDANT: So would I.

24 THE COURT: In this case. Okay. Anything else,
25 Mr. Dougherty?

1 THE DEFENDANT: Other than the October 1st
2 hearing, there were still what I thought was the unresolved
3 motion of the government to prevent me from being able to --

4 THE COURT: That's true. The government has got
5 motions pending, motions in limine, that's right, about how
6 we will conduct the trial, but there is no point in
7 addressing that. I mean, that we're going to do when we get
8 to a pretrial conference and that's the appropriate time to
9 resolve that issue.

10 THE DEFENDANT: And, again, and I'm just
11 operating off of what Judge Wolfson said.

12 THE COURT: Yes.

13 THE DEFENDANT: That the only way for me to have
14 proceeded in this case, was a 3145 motion that you never put
15 on the docket. You never put your denial on the docket
16 because you said that was entitled to an expedited appeal to
17 the Third Circuit, so even if I were going to trial, I would
18 be on the outside because he thought it was just a bail
19 issue.

20 THE COURT: Well, we had -- I recall we did have
21 a bail hearing and that I did rule. That's my recollection.

22 THE DEFENDANT: But under Manreek, (phonetic)
23 until it's actually entered into the docket, I can't appeal
24 it. And I send you a number of letters asking for a 12(d)
25 opinion asking why my bail was denied.

1 THE COURT: I thought I gave oral rulings, which
2 I'm permitted to do, and I believe even Mr. Young, he
3 participated in the argument on your behalf is my
4 recollection and I made an oral ruling.

5 And just hold on one second. Hold on. Give me
6 a second.

7 THE DEFENDANT: It was part of the October 1st
8 hearing.

9 THE COURT: All right. Hold up. Hold on one
10 second.

11 So I'm not familiar with what Judge Wolfson
12 said. I'm just waiting to get a piece of paper just to see,
13 but I mean, I made a ruling. Anybody can appeal that
14 ruling.

15 THE DEFENDANT: Okay. So to clarify, in
16 Menrique, he was convicted or actually pled guilty and the
17 judge entered the guilty plea into an order and made the
18 proper recommendation. Then at the restitution hearing, the
19 judge issued the restitution but did not tell him of his
20 right to appeal, and consequently, the issue was presented
21 to the Supreme Court in a little four-and-a-half page
22 opinion. I put it in my documentation. Apparently, you
23 have not had a chance to review it.

24 THE COURT: No. Mr. Dougherty, in fairness to
25 me, I do try to read your stuff. It's hard to read.

1 THE DEFENDANT: I understand.

2 THE COURT: I know you took offense about
3 something I said about I wasn't able to understand it all.
4 I can only do what I can do. I mean, I'm only capable --

5 THE DEFENDANT: I'm not challenging that, Your
6 Honor. I'm just saying that in that case, it specified that
7 the defendant, criminal defendant, was not allowed to appeal
8 the order until it had been specifically entered in the
9 docket with the detail, and if he had filed a notice of
10 appeal before, even though it had been ruled on from the
11 bench, that the new rule was that you link up the oral order
12 with the premature appeal notice when the judge finally
13 issued the written order into the docket and that became the
14 date that the notice of appeal was filed.

15 Since your orders do not mention either 18
16 U.S.C., 3148, 18 U.S.C. 3145, or Rule 12.3, I can't do what
17 Judge Wolfson told me to do, which was appeal it to the
18 Third Circuit as a bail issue, and, in fact, that is what
19 I've sent. I sent a couple of letters to you like, are you
20 going to file a Rule 12(d) opinion and order or, you know,
21 whatever.

22 Now, the order that I received was everything
23 has been denied and it doesn't mention anything whereas
24 Judge Wolfson believed the only way to proceed was through a
25 Bail Reform Act motion and then subsequent appeal to the

1 Third Circuit as referenced in Reese versus Warden FDC
2 Philadelphia.

3 THE COURT: All right. Hold on a second. Just
4 give me a second. I found the transcript. I'm just going
5 to read it for a second. All right?

6 (Pause.)

7 THE COURT: All right. So I am looking at
8 the transcript and it's consistent with my recollection
9 of the hearing, which is that you did talk about Judge
10 Wolfson and you did talk about his ruling and you did talk
11 about that you wanted to have his ruling reviewed by the
12 Third Circuit.

13 THE DEFENDANT: Correct.

14 THE COURT: And including his ruling that your
15 petition should be dismissed because it should have been
16 considered as a reconsideration of bail.

17 THE DEFENDANT: No.

18 THE COURT: Or a bail motion, I should say.

19 THE DEFENDANT: He never even looked at my
20 petition. He said the only way to proceed was in a bail
21 reform motion in this court.

22 THE COURT: Right.

23 THE DEFENDANT: Which had been filed as part of
24 the omnibus motion.

25 THE COURT: Okay.

1 THE DEFENDANT: On May 23rd, 2020.

2 THE COURT: Yes.

3 THE DEFENDANT: I brought up to you when you
4 said --

5 THE COURT: Well, I'm going to get to what else
6 you brought up, because then we dispensed with that, stayed
7 it, and then you questioned, you brought up whether
8 Magistrate Burke had the authority to detain you.

9 THE DEFENDANT: Correct. Correct.

10 THE COURT: And I said he did.

11 THE DEFENDANT: Right.

12 THE COURT: And then we walked through many of
13 the motions that you had, the omnibus filing.

14 THE DEFENDANT: Got to 3145. You said that is a
15 bail motion.

16 THE COURT: Right. Hold on. Okay. Then you
17 raised DI, or you raised 3145 to his attention at page 83 of
18 the transcript.

19 THE DEFENDANT: Mm-hmm.

20 THE COURT: You brought again the whole issue of
21 the authority of Magistrate Judge Burke.

22 THE DEFENDANT: Mm-hmm.

23 THE COURT: And then I made an explicit finding
24 on page 93 that Magistrate Judge Burke's decision did not
25 violate Section 3148.

1 THE COURT: Okay.

2 THE DEFENDANT: Okay.

3 THE COURT: All right. So I upheld Judge
4 Burke's, or at least I rejected the argument that you made,
5 that he lacked the authority to do that.

6 I seem to recall -- Mr. Finucane, do you
7 remember another occasion?

8 MR. FINUCANE: Outside of the October 1st
9 hearing?

10 THE COURT: Yes, where it came up?

11 MR. FINUCANE: Your Honor, that's a difficult
12 question because there were so many issues all at once.

13 THE COURT: I realize that. It's okay if you
14 don't.

15 MR. FINUCANE: I do think to the extent we sort
16 of object to going fishing for everything he brings up at
17 the last second. You know, the motions are not organized.

18 THE COURT: No.

19 MR. FINUCANE: There was never a 3145. It's a
20 stray line and an omnibus motion never addressed the issues.
21 The Court graciously handles them in court as he brings them
22 up orally. I don't know what he wants us to do.

23 THE COURT: Well, I will just say this. I mean,
24 if there's an application for a release under pretrial,
25 if you want to make it, you can file it. You can just file

1 it.

2 THE DEFENDANT: Your Honor, I wanted to say if
3 you go back to the omnibus motion, one of the cover pages
4 actually states a separate 18 U.S.C. 3145 that was filed on
5 March 23rd.

6 Now, that's not the issue. I understand
7 that you denied both the argument that Magistrate Burke
8 had been -- it had been a Gerstein versus Pugh violation to
9 delay from the arrest to the first hearing to February 20th.
10 That was I then said because in the meantime, the
11 prosecution had converted the arrest warrant into an
12 indictment.

13 A magistrate doesn't have tribunal jurisdiction
14 to dismiss the indictment. Consequently, that is what made
15 a furtherance of the Gerstein versus Pugh violation that
16 I've submitted in the documents today. It talks about how
17 that is in violation of the process.

18 I had also submitted at the time an Eighth
19 Circuit case that in that instance where, you know, your
20 pretrial release has been determined to be revoked because
21 of a crime being committed, then, in fact, you're allowed to
22 face your accuser and had the right of confrontation. So
23 that is what the whole development of that argument was.

24 Now, setting that aside for a second, a 3145
25 then would be an appeal to you directly that his

1 determination that I was a risk or threat or some other
2 factor was never put in a written order denying that motion
3 and I can't appeal it until it's entered into the docket,
4 specifically citing 18 U.S.C. 3148, 18 U.S.C. 3145. And you
5 also had made a ruling that you were denying my Rule 12.3
6 and I indicated that you lacked discretion to do so, and
7 later then you brought up and you said, Mr. Finucane,
8 wouldn't he be allowed to raise that argument from the
9 witness chair if he would be willing to do that? So I
10 assumed that would be written in an order denied in the same
11 fashion.

12 THE COURT: All right. Hold up. I think I
13 figured this out and now I know what it was I was thinking
14 of. We had a hearing in July. It was July 30th at 1:30,
15 and there was an application made by Mr. Young --

16 THE DEFENDANT: Correct.

17 THE COURT: -- to get you released.

18 THE DEFENDANT: Correct.

19 THE COURT: And I denied the application.

20 THE DEFENDANT: Correct.

21 THE COURT: So that was your ruling.

22 THE DEFENDANT: But, Your Honor --

23 THE COURT: See, that's independent of all other
24 rulings, that it was put before me to decide whether you
25 should be released, and we went through and I remember it.

1 That's why I said I knew I remembered it. I just got
2 confused because of the nature of this case, and I was
3 looking in the October hearing transcript for a description,
4 because I remember distinctly us discussing the standards
5 that apply to the statute and hearing from you and hearing
6 from Mr. Young and hearing from Mr. Finucane, and I made a
7 decision on the record weighing the factors and the statute
8 that your application to be released pending trial was
9 denied. You did have a ruling. It was not in October, it
10 was in July.

11 THE DEFENDANT: Okay. But, Your Honor,
12 respectfully, standby counsel is not representing me.

13 THE COURT: No, no. It doesn't matter. I'm
14 just saying he initiated the application, but then I gave it
15 due consideration.

16 THE DEFENDANT: Yes, but I'm trying to get to a
17 different point.

18 THE COURT: Well, I know you are. Just so it's
19 clear, regardless of whatever Judge Wolfson said, I made a
20 ruling on pretrial detention.

21 THE DEFENDANT: My point is you, for whatever
22 reason, held off ruling on my 3145 until October 1st and,
23 you know, I understand --

24 THE COURT: You keep saying your. Because of
25 the way you do motions, there was no ruling on your "3145,"

1 and I think that's what Mr. Finucane is trying to say is,
2 this is one of the problems when you file these omnibus
3 motions that are hundreds of pages long.

4 THE DEFENDANT: Well, that one is not.

5 THE COURT: Well, even if they're dozens of
6 pages long, which that one is, it was not framed for me that
7 it was another attempt to reconsider detention.

8 THE DEFENDANT: No.

9 THE COURT: The important thing is that there
10 was an order put in effect in July of last year in which I
11 explicitly addressed the issue of pretrial detention.

12 THE DEFENDANT: And, again, Your Honor, it would
13 be my recollection of the order, and I have attached it to
14 the one issue is that is going to be -- that was submitted
15 in the Third Circuit was you were speaking directly to
16 Thomas Young and me not responding directly to that show
17 cause because I said there was this omnibus motion pending
18 since March 23rd.

19 So then at that point, again, included in this,
20 I put together -- I just put a cover page for the United
21 States versus Lance Green, Case Number 319 CR 233, Middle
22 District of Pennsylvania, and it is kind of a similar
23 circumstance where originally, he was deemed to have been
24 responsible for the Speedy Trial Act violation because of
25 certain motions or whatever and dismissal of counsel. And

1 back in -- and then Covid 19 came in, and in this particular
2 case they had to do an accounting of what Speedy Trial Act
3 time actually was properly exempted, and not only was it a
4 violation of the Speedy Trial Act once, but twice, and the
5 second time he was given bail on his own recognizance
6 because of the Speedy Trial Act violation. So in the case
7 of the omnibus motion, according to the rules, it would be
8 given 30 days unless a hearing was held. So from March
9 23rd, 2020 until October 1st is well beyond the time.

10 So, in fact, when we first met on September 12,
11 2019, I asked to discuss that issue, and you told me we
12 weren't going to be discussing that at that time because we
13 were just going to be discussing Keith Dougherty
14 representing himself.

15 THE COURT: Okay.

16 THE DEFENDANT: And so now here we have a
17 situation where I made a written heading, 3145 on March
18 23rd, 2020, and, in fact, it was not ruled on in April, May,
19 June, July or August, September, and on October 1st you
20 indicated that the argument of the Gerstein versus Pugh
21 violation was being dismissed, and then you made the overall
22 comment that it was preserved for appeal just like you're
23 talking about now when, in fact, there is no way to appeal a
24 Gerstein versus Pugh violation.

25 Once the case is over, it becomes moot, and I

1 submitted that to you in terms of the recent Supreme Court
2 precedent discussing it, that it had to be resolved, and
3 once again it's being addressed in this status conference
4 memoranda with relevant citations, and that is why the
5 habeas is pending, to, in fact, try to resolve this.

6 MR. FINUCANE: Your Honor --

7 THE COURT: Why don't we do this. I will take
8 it under advisement. I will look at your filing, see if it
9 changes my mind.

10 THE DEFENDANT: Again, I'm simply looking for an
11 order that says Keith Dougherty's Rule 12.3 motion is denied
12 or enforcement motion is denied. Keith Dougherty's 18
13 U.S.C. 3148 is denied. Keith Dougherty's 3148, 3145 is
14 denied, and then I can comply with Manreek. That becomes an
15 order entered on the criminal docket that becomes appealable
16 of which then I could file an appeal to the Third Circuit
17 according to what Judge Wolfson had recommended.

18 MR. FINUCANE: And, Your Honor, the government
19 objects. This process, it occurred. We object to
20 additional unnecessary orders being entered on the docket.

21 THE DEFENDANT: Again, if you can produce an
22 order for me that shows me those things.

23 MR. FINUCANE: These matters have been
24 litigated. He's just going in circles.

25 THE COURT: Yes, I hear you. I will take it

1 under advisement.

2 MR. FINUCANE: Thank you.

3 THE COURT: And I will look at it.

4 Where we are right now is that the defendant
5 remains detained pending trial. I've offered an opportunity
6 if he wanted to deny his -- change his mind and go to trial
7 as expeditious as he can. He wants to wait out the Third
8 Circuit ruling. I'm going to do that, as I say, in large
9 part because of the Covid situation in any event, but also
10 because he has asked.

11 And I think we've had a full colloquy here
12 today. I've made it clear to the defendant the
13 repercussions that come with having a stay. And we'll
14 monitor the three cases that are pending before the Court of
15 Appeals, and if the occasion, it seems to me, arises, it is
16 in the interests of justice to bring you back in here for a
17 status conference to schedule a trial, I'm going to do that
18 as soon as I can.

19 All right? All right. Anything else,
20 Mr. Finucane?

21 MR. FINUCANE: No. Thank you, Your Honor.

22 THE COURT: All right. Thank you, then. We're
23 adjourned:

24 (Hearing concluded at 2:14 p.m.)

25 - - -